BRIAN HEAD

The Regular Meeting of the Brian Head Town Council
Brian Head Town Hall – Council Chambers
56 North Highway 143 – Brian Head, UT 84719
www.Zoom.us (Click Here)
Via Zoom Meeting ID# 849 9835 2929
TUESDAY, OCTOBER 24, 2023 @ 1:00 PM

AGENDA

A. CALL TO ORDER
B. PLEDGE ALLEGIANCE
C. DISCLOSURES
D. APPROVAL OF THE MINUTES:
   1. September 26, 2023 Town Council Meeting
   2. September 26, 2023 Town Council Closed Session Meeting
   3. October 10, 2023 Town Council Meeting

E. REPORTS / PUBLIC INPUT ON NON-AGENDA ITEMS. Public input is limited to three (3) minutes on non-agenda items.

F. AGENDA ITEMS:

1. E-BIKE POLICY DISCUSSION. Amanda Hunter, Code Enforcement. The Council will hold a discussion on E-Bikes and the Town Trails. No action will be taken, direction to staff.

2. NOISE ORDINANCE / ENGINE BREAKS DISCUSSION. Bret Howser, Town Manager. The Council will hold a discussion on a proposed amendment to the Noise Ordinance for engine breaks. No action will be taken. Direction to staff.

3. IRON COUNTY PRESENTATION FOR JAIL BOND ELECTION. Jon Whittaker, Iron County Clerk. Iron County Representatives will give a presentation for the Iron County Jail Bond that will be on the 2023 Election Ballot. .

4. FUTURE AGENDA ITEMS. The Council will discuss potential items for future agendas.

G. ADJOURNMENT

Date: October 20, 2023

Available to Board Members as per Ordinance No. 11-003 authorizes public bodies, including the Town, to establish written procedures governing the calling and holding of electronic meetings at which one or more members of the public board may participate by means of electronic communications. In compliance with the Americans with Disabilities Act, persons needing auxiliary communications aids and services for this meeting should call Brian Head Town Hall @ (435) 677-2029 at least three days in advance of the meeting.

CERTIFICATE OF POSTING

I hereby certify that I have posted copies of this agenda in three conspicuous locations; the Post Office, The Mall, and the Brian Head Town Hall and have posted copies on the Utah Meeting Notice Website and the Brian Head Town website and have caused a copy of this notice to be delivered to the Daily Spectrum, a newspaper of general circulation.
Nancy Leigh, Town Clerk

STAFF REPORT TO THE TOWN COUNCIL

BRIAN HEAD

ITEM: **eBIKE POLICY DISCUSSION**

AUTHOR: Amanda Hunter & Bret Howser
DEPARTMENT: Administration
DATE: October 24, 2023
TYPE OF ITEM: Discussion

SUMMARY:

The Town Council will hold a discussion regarding potential legislative policy pertaining to the use of electric bicycles (or eBikes) within Brian Head Town.

BACKGROUND:

The Town Council has requested to hold this policy discussion. The Town has not heretofore had an official policy regarding eBikes.

ANALYSIS:

Classes of eBikes

The three standard classes of eBikes are defined as follows:

- Class 1: eBikes that are pedal-assist only, with no throttle, and have a maximum assisted speed of 20 mph.
- Class 2: eBikes that also have a maximum speed of 20 mph, but are throttle-assisted.
- Class 3: eBikes that are pedal-assist only, with no throttle, and a maximum assisted speed of 28 mph.

All classes limit the motor's power to 1 horsepower (750W).

Some states treat Class 1 eBikes like traditional mountain or pavement bicycles, legally allowed to ride where bicycles are permitted, including bike lanes, roads, multiuse trails and bike-only paths.

Class 2 throttle-assist eBikes are often allowed most places a traditional bicycle can go, though some states and cities are opting for additional restrictions. Class 2 may not be suitable for singletrack mountainbike trails — it has been shown that they may cause greater physical damage to trails due to the throttle-actuation. Class 2 may be better suited for multi-use OHV trails designed for more rugged off-road vehicles.

Class 3 eBikes are typically allowed on roads and on-road bike lanes ("curb to curb" infrastructure), but restricted from bike trails and multiuse paths. While a 20-mph maximum speed is achievable on a traditional bicycle, decision makers and agencies consider the greater top-assisted speed of a Class 3 eBike too fast for most bike paths and trails that are often shared with other trail users.

Utah eBike Laws
Summary of Utah eBike law from www.bikeutah.org/bicyclelaws --

- Electric assisted bicycles are subject to the same provisions as a bicycle.
- An individual may operate an electric assisted bicycle on a path or trail designated for the use of a bicycle.
- **A local authority or state agency may adopt an ordinance or rule to regulate or restrict the use of an electric assisted bicycle**, or a specific classification of an electric assisted bicycle, on a sidewalk, path, or trail within the jurisdiction of the local authority or state agency.
- Cyclists younger than 16 years of age may not operate a class 3 electric assisted bicycle.
- Cyclists younger than 14 years of age may not operate an electric assisted bicycle with the electric motor engaged on any public property, highway, path, or sidewalk unless the individual is under the direct supervision of the individual's parent or guardian.
- Cyclists younger than 8 years of age may not operate an electric assisted bicycle with the electric motor engaged on any public property, highway, path, or sidewalk.
- The owner of an electric assisted bicycle may not authorize or knowingly permit an individual to operate an electric assisted bicycle in violation of this section.
- Beginning January 1, 2017, each Utah-based manufacturer of an electric assisted bicycle and each distributor of an electric assisted bicycle in Utah shall permanently affix a label in a prominent location on the electric assisted bicycle. Each manufacturer and each distributor shall ensure that the label is printed in Arial font, in 9-point type or larger, and includes the appropriate electric assisted bicycle classification number, the top assisted speed, and wattage of the motor.
- An individual who violates these provisions is guilty of an infraction.
- A person may not drink any alcoholic beverage while operating a class 2 electric assisted bicycle, whether the bike is moving, stopped, or parked on any highway or waters of the state (and no open containers either)

Attached is a handout from peopleforbikes.org regarding Utah law for eBikes.

Federal Land and eBikes
Class 1, 2, and 3 e-bikes are allowed on motorized trails and roads on national forests and grasslands. Additionally, several year-round resorts operating under a special use permit have established e-bike use within their permit boundary.

Local Forest Service officials may consider new opportunities for e-bike use on non-motorized trails and in non-motorized areas by utilizing a designation process in accordance with the Travel Management Rule (36 CFR Part 212, Subpart B). Designations involve appropriate environmental analysis, public involvement, and local decision-making.

Currently, eBikes are not allowed on any non-motorized trails in the Dixie National Forest or Cedar Breaks National Monument. Staff has not been able to ascertain whether they are considering a local process to designate any non-motorized trails for eBike use.

FINANCIAL IMPLICATIONS:
N/A

BOARD/COMMISSION RECOMMENDATION:

The Council may wish to solicit input from the Planning Commission on this topic before finalizing any Town policies

STAFF RECOMMENDATION:

Staff believes that Class 1 eBikes may be appropriate for use on non-motorized trails. However, Class 2 and 3 may have safety concerns as well as trail maintenance concerns. That said, there may also be some value in remaining consistent with surrounding federal agencies, to avoid causing confusion in our guests.

PROPOSED MOTION:

No motion necessary, item is discussion/informational only

ATTACHMENTS:

A – Utah eBike Law Handout

UTAH'S ELECTRIC BICYCLE LAW

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UTAH'S ELECTRIC BICYCLE LAW FOR THE ROAD

- Electric bicycles are regulated like bicycles. The same rules of the road apply to both electric bicycles and human-powered bicycles.
- Electric bicycles are not subject to the registration, licensing, or insurance requirements that apply to motor vehicles.
- Utah designates three classes of electric bicycles:
  - Class 1: Bicycle equipped with a motor that provides assistance only when the rider is pedaling, and that ceases to provide assistance when the electric bicycles reaches 20 mph.
  - Class 2: Bicycle equipped with a throttle-actuated motor, that ceases to provide assistance when the electric bicycle reaches 20 mph.
  - Class 3: Bicycle equipped with a motor that provides assistance only when the rider is pedaling, and that ceases to provide assistance when the electric bicycle reaches 28 mph.
- Electric bicycles are allowed on bike paths but not on sidewalks.

*The following Utah laws are referenced: Utah Code § 41-6a-102 (7-9, 16); § 41-6a-1115.5; § 41-6a-1505.

eMTB GUIDELINES

- On federal, state, country and local trails, electric mountain bike (eMTB) access varies significantly.
- Generally, any natural surface trail that is designated as open to both motorized and non-motorized uses is also open to eMTBs.
- eMTBs may not be allowed on trails managed for non-motorized activities.
- Do not ride your eMTB in areas where the local rules are unclear. Ride legally and only on authroized trails to show that mountain bikers are responsible trail users.
- When in doubt, ask your local land manager about access to specific trails. Local land rules change frequently.

UTAH'S ELECTRIC BICYCLE LAW FOR TRAILS

- LOCAL: Consult your local land management agency.
- STATE: Utah State Parks allows electric bikes on non-motorized trails open for bikes. Contact Utah State Parks for more information.
- FEDERAL: On federal lands, eMTBs are considered motorized vehicles and have access to motorized trails. Contact the U.S. Forest Service Intermountain Regional Office or the BLM Utah State Office Bend National Park for more information.

CHECK OUT

- A map of great eMTB rides at peopleforbikes.org/emtb
- eMTB "Adventures" at peopleforbikes.org/electric-bikes

GREAT eMTB RIDES IN UTAH

- **Slickrock**
  Moab | 10.7 miles
- **Alpine Loop**
  Aspen Grove | 10.9 miles

With an electric bicycle, bicyclists can ride more often, farther, and for more trips.

Electric bicycles are designed to be as safe as traditional bicycles, do not compromise consumer safety, and benefit bicyclists who may be discouraged from riding a traditional bicycle due to limited physical fitness, age, disability or convenience.

In many states, electric bicycles are regulated under antiquated laws primarily aimed at combustion engine vehicles such as mopeds or scooters. PeopleForBikes is clarifying state laws governing the use of electric bicycles in the U.S. Every state's law is different, but the objective is to ensure that low-speed electric bicycles are regulated similarly to traditional, human-powered bicycles.

Learn more at PeopleForBikes.org/electric-bikes

- Blogs and webinars
- Electric bicycle laws around the country
- Electric bicycle statistics and research
- Buying guide
- Retailer materials
- eMTB management resources

STAFF REPORT TO THE TOWN COUNCIL

BRIAN HEAD

ITEM: NOISE ORDINANCE DISCUSSION: ENGINE BRAKES

AUTHOR: Bret Howser
DEPARTMENT: Administration
DATE: October 24, 2023
TYPE OF ITEM: Discussion

SUMMARY:

The Council will discuss the Town's noise and nuisance ordinance, particularly as it regards engine brake noise in residential areas.

BACKGROUND:

Given the sharp uptick in construction traffic and noise in recent summers in Brian Head, the community has expressed growing concern. The Council has asked to have a discussion around the Town's noise ordinances, particularly as it pertains to engine brake noise.

ANALYSIS:

Brian Head Town Noise Regulations

Our Town Code declares any noise "Causing any person to complain that their peace has been disturbed by use of loud music, vehicle noise, loud speech, or other loud or offensive noise occurring after 10:00 pm or before 7:00 am." to be a nuisance. We then list the following exceptions:

- Safety signals/warning devices
- Emergency vehicles responding to an incident
- Lawful emergency work
- Lawful fireworks
- Temporary activities permitted by the Town
- Snowmaking/grooming
- Snow plowing

Staff recommends clarifying the exception for activities permitted by the Town. Some have argued that this exception permits any noise related to construction for which there is building permit, reasonable or not.

Examples from Other Communities:

Cedar City: Cedar City does not have much in their ordinances with regard to noise. Their nuisance ordinance definition includes: "Creating unreasonable noise which disturbs others". There is no mention of engine brakes specifically or the like.

Park City: Park City includes an entire list of prohibited noises, including engine brakes:

> **6-3-8 Specific Noise Prohibitions**
> The following acts are declared to be in violation of these rules and regulations:
> …

N. DYNAMIC BRAKING DEVICES. Operating any motor vehicle with a dynamic braking device engaged, except:
1) To avoid imminent danger; or
2) Where permitted as posted on the following streets:

- -Ontario Canyon
- -Royal Street
- -Aerie Drive

during the following hours: 7 a.m. thru 10 p.m., Monday thru Saturday, and 9 a.m. thru 10 p.m. on Sundays.

Springdale: Springdale has a very general noise ordinance which prohibits any noise producing certain decibel levels at certain times of day. These noises are prohibited if they occur for longer than 30 seconds in one shot, or for more than 90 seconds cumulatively in a 30 minute period. They have a list of specific noises which are exempted. That list includes normal vehicle operation noise – but they specify that engine brakes are not included in that exemption.

Enforcement

Brian Head Marshals currently own and operate a decibel-meter. It's mostly used for OHV enforcement. Enforcing noise restrictions is currently split between code enforcement and the Marshals. Noise emanating from an unpermitted use at a fixed location can typically be handled administratively through code enforcement. Noise resulting from vehicles in operation require a Marshal to pull somebody over.

Staff has reached out to Park City and Springdale to ascertain what their experience has been enforcing their respective codes. We hope to have feedback from them to share during our discussion on Tuesday. We've also consulted with our Public Works Department, and their experience is that there are parts of Town (middle of Steam Engine Drive, Ridge View Street, maybe a portion of Hunter Ridge Dr) where a loaded down truck either needs engine breaks or has to be geared down to where they're only going 5 mph. Otherwise it's a safety issue.

FINANCIAL IMPLICATIONS:

N/A

BOARD/COMMISSION RECOMMENDATION:

N/A

STAFF RECOMMENDATION:

Of the 3 ordinances we reviewed, Park City's appears to be the most tailored to the issue. So we would suggest modeling our ordinance similarly. But we don't have a recommendation until we've been able to discuss with them what their enforcement experience has been.

PROPOSED MOTION:

No motion necessary, item is discussion/informational only

ATTACHMENTS:

N/A

STAFF REPORT TO THE TOWN COUNCIL

BRIAN HEAD

ITEM: **IRON COUNTY JAIL BOND PRESENTATION**

AUTHOR: Nancy Leigh, Town Clerk
DEPARTMENT: Administration
DATE: October 24, 2023
TYPE OF ITEM: Informational

SUMMARY:

Representatives from Iron County will give a presentation for the $89,950,000 in General Obligation bonds for the Iron County jail that is being proposed on Highway 56 in Iron County.

BACKGROUND:

As most of you are aware, the Iron County Commission first proposed a property tax increase to fund the new county jail. This received a lot of negative input from the public and the County Commissioners revisited the issue and determined that a General Obligation Bond could be a better course of action since GO bonds have an ending date.

ANALYSIS:

Iron County is proposing a Special Bond Election for a General Obligation Bond in the amount not to exceed $489,950,000 for the purpose of financing all or a portion of a new Iron County jail and the related improvements. The term of the bond is not to exceed 31 years. The estimated average amount on a primary residence with a value of $405,000 would be $153.04 per year and the estimated amount of $278.25 per year on a business property having the same value.

The bond is paying for the construction, furnishing, and equipping the new jail along with related improvements.

Iron County Representatives will answer questions from the Council and public on this topic and will provide additional information on the GO Bond.

FINANCIAL IMPLICATIONS:

N/A

BOARD/COMMISSION RECOMMENDATION:

N/A

STAFF RECOMMENDATION:

This is a presentation from Iron County, no staff recommendations.

PROPOSED MOTION:

Informational Item only.

ATTACHMENTS: